



LAWRENCE S. LUSTBERG
Director

Gibbons P.C.
One Gateway Center
Newark, New Jersey 07102-5310
Direct: (973) 596-4731 Fax: (973) 639-6285
llustberg@gibbonslaw.com

April 1, 2016

VIA ECF

Honorable William J. Martini
United States District Judge
Martin Luther King, Jr. Federal Courthouse
50 Walnut Street, P.O. Box 999
Newark, New Jersey 07101-0999

**Re: *In re Urethane Antitrust Litigation*,
Master Docket No. 08-5169 (WJM) (MF)**

Dear Judge Martini:

As Your Honor is aware, this firm, along with Dechert LLP, represents defendant The Dow Chemical Company ("Dow") in the above-referenced action. We are in receipt of Plaintiffs' March 31, 2016, letter regarding Dow's limited proposed supplemental designations of Stephanie Barbour. The factual dispute outlined in that letter illustrates precisely why this issue should be presented to the jury—the finder of fact in this case. Anything less would undermine the truth finding process. Specifically, during the course of this trial, and almost certainly next week during cross-examination of Mr. Schefsky (who will testify live), Plaintiffs have adduced or will proffer facts to this jury that are contradicted by Ms. Barbour's sworn testimony contained in Dow's supplemental designation. Plaintiffs, however, should not be permitted to advance factual contentions and then seek to exclude evidence that shows that those contentions are false. Finally, any claim that Plaintiffs will be prejudiced is solved by allowing Plaintiffs to counter designate appropriate testimony in response to Dow's supplemental designation, as Dow itself has suggested.

Thank you for your consideration in this matter.

Respectfully submitted,

s/ Lawrence S. Lustberg
Lawrence S. Lustberg

cc: All counsel of record (*via* ECF)